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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,050	08/27/2001	Reinhard Hamperl	GR 99 P 1289	4449

7590 06/19/2003

LERNER AND GREENBERG, P.A.  
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EXAMINER

LUM, LEE S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/940,050

Applicant(s)

HAMPERL ET AL.

Examiner

Ms. Lee S. Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. A Request for Reconsideration was filed 3/18/03.
2. The disclosure is objected to because in Claim 9, line 1, "interior" lacks antecedent basis. Appropriate correction is required.
3. The disclosure is objected to because in Claim 11, "start" lacks antecedent basis.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 5-8** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 5, all references to "a control device" are redundant, and/or unclear, because this element was inclusively established with the recitation "a device...according to claim 1" in lines 5-6.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Darby et al 5835873 in view of Byon 5847472.

Re **Claims 1-5**, Darby discloses device 100 for sensing an object/person in a vehicle interior comprising

Sensor (col 11, lines 4-5) for object/person,  
Impact sensor 340,  
Non-volatile memory 360 (col 11, lines 35-36) storing sensor data,  
Controller 200 for occupant protection means 410, and,  
Main controller 310.

The patent does not disclose the memory as storing activation data from the protection means controller, while Byon shows this feature in col 6, lines 64, to col 7, line 2. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature, as shown in Byon, to provide a more comprehensive record of the operation of the protection system, so to serve as an accurate chronological record for subsequent review for improvements, or for insurance/claim purposes, etc.

Re **Claim 6**, Darby discloses the controller of the protection means as outputting a signal when the latter is triggered, as explained in col 11, lines 29-34, i.e., "memory 360 [stores]...data from...the safety device controllers 200".

Re **Claims 7 and 8**, Darby discloses the controller of the protection means as outputting a signal when impact exceeds a threshold value, as indicated in col 11, lines 37-49, i.e., "the ECU 310 comprises a means for controlling and interchanging data...with the...acceleration sensor 340, and with the memory 360, and for performing control algorithms...".

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 9-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Byon.

Byon further discloses a method for sensing an object/person in the interior of the vehicle comprising

Employing sensor (col 11, lines 4-5) to determine whether an object/person is present,  
Supplying sensor data to control device 200, arranged spatially separate from the sensor, for occupant protection means 410.

The reference does not specify the storing the data in a device containing the sensor, but it would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature to allow quick access to the data for the control device in order for expedient actuation of the protection device as necessary.

The reference discloses further steps in the method, the steps derived from the structure and means discussed above.

7. RESPONSE TO REMARKS

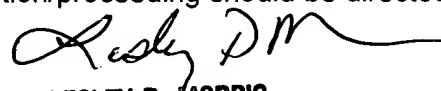
Examiner reiterates her rejections of Claims 1-8 as discussed above. Claim 1 recites, *inter alia*, "A device for sensing an object or a person in an interior of a vehicle, comprising... "a memory... and, a control unit connected to said memory".

Examiner has reconsidered the previous allowance of Claims 9-12 because Byon discloses the recited method, as provided above. She apologizes for any inconvenience.

8. Communication with the Examiner and USPTO

Any inquiry concerning this communication should be directed to Ms. Lum at (703) 305-0232, 9-530, M-F. Our fax numbers are (703) 872-9326, 872-9327 for after-final communications, and 308-2571 for faxes having prior notice given to the examiner. Any inquiry of a general nature, or relating to the status of this application/proceeding should be directed to Customer Assistance at (703) 306-5771.

Ms. Lee S. Lum  
Examiner  
6/3/03



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